IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF PUERTO RICO

115-9-13401

IN THE MATTER OF:

MIGUEL A MARZAN BONILLA MAYRA B DIAZ LAUREANO

Debtor(s)

CASE NO. 10-06173 ESL

CHAPTER 13

MOTION REQUESTING DISMISSAL

TO THE HONORABLE COURT:

COMES NOW creditor BANCO BILBAO VIZCAYA ARGENTARIA (BBVA), represented by the undersigned attorneys and very respectfully states and prays:

- 1. On **July 10th**, **2010**, debtors filed instant petition for relief. On September 28^{th} , 2010, this Honorable Court entered an <u>Order</u> directing debtors file monthly operating reports.
- 2. Appearing creditor respectfully requests from this Honorable Court to enter an Order dismissing the instant case based on the following grounds:
- 3. As of **January 18th**, **2011**, debtors have failed to file the required monthly operating reports of the months of July, 2010 to December, 2010, as per Sections 1304(c) and 704(8) of the Bankruptcy Code, 11 USC §§ 1304(c) and 704(8), Bankruptcy Rule 2015 and Local Bankruptcy Rule 2015(b), and this court's order.
- 4. Section 1307(c)(1) of the Bankruptcy Code [11 USC \$1307(c)(1) and (4)] states as follows:
 - "(c) Except as provided in subsection (e) of this section, on request of a party in interest or the United States trustee and

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after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including—

- (1) unreasonable delay by the debtor that is prejudicial to creditors;
- 5. More than one hundred and ninety (190) days have elapsed since debtors filed the instant petition for relief and they have failed to file the aforementioned monthly operating reports. As of this date they have not been able to obtain confirmation of a plan. All creditors, this Honorable Court and the Chapter 13 Trustee have the right to be adequately informed to ascertain whether or not this is a feasible case. Debtor have shown a lack of prosecution of this case.
- 6. Pursuant to Local Bankruptcy Rule 9031-1 (h)(1) and(2), it is respectfully requested from this Honorable Court that, should debtor fail to file a response to the instant motion within fourteen (14) days plus three (3) days if it is send by mail and from notice of the same an Order may be entered dismissing the instant case without the need of a hearing.

WHEREFORE, it is respectfully requested from this Honorable Court to grant this motion and to enter an Order dismissing the instant case.

I HEREBY CERTIFY: On this same date I electronically filed the foregoing document with the clerk of the Court using the CM/ECF System which will sent notification of such filing to the

Motion Requesting Dismissal Case No. 10-06173 ESL Page No. 3

following: Attorney for Debtor(s), JUAN O CALDERON LITHGOW, ESQ., and to Chapter 13 Trustee, ALEJANDRO OLIVERAS RIVERA and by ordinary mail to debtor(s) and to all creditors and parties in interest appearing in the attached Master Address List.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this /8 day of January ,2011.

<u>s/ Angel M. Vázquez Bauzá</u> Angel M Vázquez Bauzá, Esq.

Bar Number: 203308 ENR & Associates PO Box 191017 San Juan, PR 00919-1017

Tel. 754-1313 Fax. 754-1354

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Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

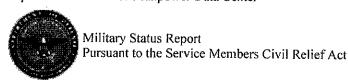
Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

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Department of Defense Manpower Data Center

Jan-18-2011 05:40:27



≪ Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency		
DIAZ LAUREANO	MAYRA B	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.					

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary Mr. Lnevely-Dixon

Mary M. Snavely-Dixon, Director
Department of Defense - Manpower Data Center
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL http://www.defenselink.mil/faq/pis/PC09SLDR.html. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects active duty status including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

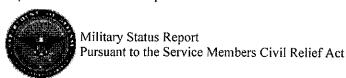
More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

Coverage Under the SCRA is Broader in Some Cases

Department of Defense Manpower Data Center

Jan-18-2011 05:39:50



≪ Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency		
MARZAN BONILLA	MIGUEL A	David and information of the control					

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

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MONSITA LECAROZ ARRIBAS
OFFICE OF THE US TRUSTEE (UST)
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The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).